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Advanced Legal Research and Writing

Course Materials

Sara Faherty
Winter, 2015

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UNIVERSITY OF TORONTO FACULTY OF LAW

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Sara Faherty

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Eric Appleby, “*The Anatomy of a Headnote*,” <http://www.slaw.ca/2010/08/23/the-anatomy-of-a-headnote/>.

Wayne C. Booth, Gregory G Colomb, & Joseph M. Williams, *The Craft of Research*, 3d ed. (Chicago, University of Chicago Press, 2008).

Linda Edwards, *Legal Writing: Process, Analysis, and Organization*, 3d ed. (New York: Aspen Publishers, 2011).

Bryan Garner, *The Redbook: A Manual on Legal Style*, 2d ed (St. Paul, Minnesota: West Academic, 2013).

Bryan Garner, *The Winning Brief*, 2d ed (Oxford: Oxford University Press, 2004).

Nancy McCormack, John Papadopoulos & Catherine Cotter, *The Practical Guide to Canadian Legal Research* (Toronto: Carswell, 2010).

Laurel Currie Oates & Anne Enquist, *The Legal Writing Handbook: Analysis, Research, and Writing*. (Frederick Maryland: Aspen, 2010).

Jeremy Paul, “A Bedtime Story, ” *Virginia Law Review*, Vol. 74, No. 5, pp. 915-934, August 1988.

Nancy Schultz, & Louis Sirico, *Legal Writing and Other Lawyering Skills*, 5th ed. (New York: Wolters Kluwer, 2010).

Steven D Stark, *Writing to Win: The Legal Writer* (New York: Main Street Books, 1999).

Advanced Legal Research, Analysis and Writing
LAW 307 H1F; 3 credits, 2 hours
Mondays, 2:10 – 4:00 p.m.
Northrop Frye, Room 332

Sara Faherty
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This course cultivates analytical research and writing skills through problem based learning. The approach will be to use fact situations to hone such skills as: identifying legal issues; formulating research strategies and methodologies; efficiently using relevant secondary sources; usefully integrating print resources with electronic resources; analyzing and synthesizing applicable primary sources; applying critical thinking; and writing clearly and effectively. Class participation entails regular attendance, frequent input into discussion and a short, informal presentation. The development of the skills in this course will assist students in their academic course work and prepare them for their professional careers.

Evaluation: An interoffice memo of 1,500 words (20%); a rewrite of 2,000 words (30%); a longer assignment on advocacy writing of 2,500 – 3,000 words (40%); and class participation (10%).

Required Texts:

- Canadian Guide to Uniform Legal Citation, 8th Ed., McGill Law Journal. 2014.
- Materials in Law School Bookstore

Class 1: Monday, January 5, 2014

INTRODUCTION

Please read:

- *Bedtime Story*
Jeremy Paul.....page 1
- Case Brief Assessment.....page 7
- *The Anatomy of a Headnote*
Eric Appleby.....page 8
- IRAC This!page 9

Topics:

- Internal memoranda.
- Grammar Diagnostic (Optional)
- Case briefs and Case notes

Ungraded writing opportunity (in class): Introduce yourself and tell me why you are taking this class. Where did you go to undergraduate school and what did you study? What is your prior experience with legal writing? Do you know in which area of law you will be practicing? What are your writing goals, strengths, and weaknesses?

Class 2: Monday, January 12, 2014

COURT HIERARCHY I

Please read:

- *Legal Research Checklist*.....page 10
- *Reference Tools*.....page 13
- *The Legal Writing Handbook*
Laurel Oates and Anne Enquist.....page 16
- “Demand Letter”
Bryan Garner, *The Redbook*.....page 19

Topics:

- Case Law I—analogizing facts and holdings
- Reading and Briefing Cases
- Group Assignments

Ungraded writing opportunity: prepare a demand letter (in class).

Class 3: Monday, January 19, 2014

COURT HIERARCHY II

Please read:

- Format for an Internal Memo & Rubric.....page 23
- “Document Design”
Bryan Garner, *The Redbook*.....page 24
- Tips on Issues (3, 8, 11, 12)
Bryan Garner, *The Winning Brief*.....page 31
- *Thorne v. Ontario*
2004 CanLII 192 (ON SC)page 96

Topics:

- *Thorne* Worksheets (in class)
- Case brief Assessments—peer assessments (in class)
- Research in Primary Sources

Ungraded writing opportunity: prepare a case brief for *Thorne*.

Class 4: Monday, January 26, 2014

DOING LEGAL RESEARCH

Please read:

- Bryan Garner, *The Winning Brief*.....page 31
Tips on Lively Writing (30, 31)
- Bryan Garner, *The Winning Brief*.....page 51
- “Writing the Introduction and Headings”
Steven Stark, *Writing to Win*.....page 57

Visit from Law Librarian

Class 5: Monday, February 2, 2014

LEGAL CITATION

Please read “Legal Citation” on Bora Laskin Law Library Website:

<http://library.law.utoronto.ca/legal-citation>

Ungraded writing assignment: draft three wrong citations, on a separate page, give corrected cite, referenced to relevant *McGill’s* rule(s).

Assignment 1: Inter-office Memorandum—Common Law: Due Monday, February 2--- 10:30 am in Falconer 109.

Class 6: Monday, February 9, 2014

STATUTES

Please Read:

- *Noting Up Case Law*
Nancy McCormack.....page 72
- *Researching Statutes*
Nancy McCormack.....page 76

Topics:

- Research in Primary Sources: Statutes
- Interpreting Statutes

Monday, February 16, 2014: No class, Reading Week

Class 7: February 23, 2014

REWRITING & EDITING

Please read:

- *Point Headings and Sub-Headings*.....page 59
- “Using Case law Effectively”
Steven Stark, *Writing to Win*.....page 60
- *Discussing Multiple Issues: Putting it All Together*
Linda Edwards.....page 64
- *Deepening Your Analysis*
Linda Edwards.....page 102

Individual or Dual meetings

Monday, March 2, 2014:
ADVOCACY WRITING

Topics:

- The Appellate setting, the function of the factum: audience and purpose, the format of the factum.
- Tables of Contents
- Ethical considerations
- Civil Litigation and Motion Practice

Assignment 2: Interoffice memorandum—Rewrite: Due Monday, March 2 at 10:30 am

Class 8: Monday, March 9, 2014
MOTION PRACTICE

Please read:

- *Organizing for your Reader: The Discussion Section*
Linda Edwards.....page 111
- Tip on the Standard of Review (95)
Bryan Garner, *The Winning Brief*.....page 116
- Tip on Winning (97)
Bryan Garner, *The Winning Brief*.....page 118
- “Motions”
Bryan Garner, *The Redbook*.....page 135

Topics:

- The Appellate setting, the function of the factum: audience and purpose, the format of the factum.
- Tables of Contents
- Ethical considerations
- Civil Litigation and Motion Practice
- Function of Motion Brief: audience and purpose
- Format of Motion Brief
- Oral presentations

Class 9: Monday, March 16, 2014
OTHER DOCUMENTS

“Pleadings”

Bryan Garner, *The Redbook*.....page 124

“Making Good Arguments”

Wayne C. Booth, *The Craft of Research*.....page 130

When do you Stop?

Nancy Schultz.....page 141

Oral presentations:

Groups, TBA

Class 10: Monday, March 23, 2014

Oral presentations:

Groups, TBA

Class 11: Monday, March 30, 2014

Oral presentations:

Groups, TBA

ASSIGNMENTS & DUE DATES

Please use required cover page (form) and print double-sided.

Assignment 1: Inter-office Memorandum

Due Monday, February 2, 10:30 am in Falconer 109.

Assignment 2: Substantial Rewrite of Inter-office memorandum

Due Monday, March 2, 10:30 am in Falconer 109.

Oral Presentations: short, informal presentations given during class on Mondays, March 16, March 23, and March 30.

Assignment 3: Motion Brief

Due Date: Thursday, April 23, 10:00 a.m. in Falconer 109 (Deadline for all second term written submissions.)